

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ANGIE RENEE HORNE,	)	
	)	
Petitioner,	)	
	)	1:19CV196
v.	)	1:17CR288-2
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**ORDER**

This matter is before this court for review of the Order and Recommendation filed on May 21, 2020, (Doc. 77), by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). In the Recommendation, the Magistrate Judge recommends that all of Ground One, and the first three sub-grounds of Ground Two of Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255, (Doc. 63), be denied and that an evidentiary hearing be set on sub-ground four of Ground Two as to whether counsel failed to consult with Petitioner regarding an appeal and whether Petitioner instructed counsel to file an appeal. The Recommendation was served on the parties to this action on May 22, 2020, (Doc. 78). Petitioner timely filed objections, (Doc. 79), to the Recommendation. She later filed

additional objections, (Doc. 80). An evidentiary hearing was held on September 22, 2020, before the Magistrate Judge.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge=s] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge=s Recommendation. This court therefore adopts the Recommendation.

Also before the court for review is the Second Recommendation filed on October 13, 2020, (Doc. 90), by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). In this Recommendation, the Magistrate Judge recommends that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255, (Doc. 63), be granted in part and denied in part. To the extent that Petitioner seeks the reinstatement of her appellate rights, Petitioner's motion, (Doc. 63), should be granted, that the judgment, (Doc. 47),

should be vacated, that a new judgment should be re-entered to allow Petitioner an opportunity to file an appeal, and the existing appointment of counsel should extend to cover any consultation and appeal. The second Recommendation was served on the parties to this action on October 13, 2020, (Doc. 91). No objections were filed within the time limits prescribed by Section 636. Petitioner's counsel filed a Notice that No Objection will be filed to the [second] Recommendation. (Doc. 92.)

The court need not make a de novo review of the second Recommendation and the Recommendation is hereby adopted.

**IT IS THEREFORE ORDERED** that the Magistrate Judge=s Recommendations, (Docs. 77, 90), are **ADOPTED. IT IS FURTHER ORDERED** that Petitioner's motion, (Doc. 63), to vacate, set aside, or correct sentence is **GRANTED IN PART AND DENIED IN PART.** To the extent that Petitioner seeks the reinstatement of her appellate rights, Petitioner's motion, (Doc. 63), is **GRANTED** as to sub-ground four of Ground Two, and that the Judgment of the court entered on March 6, 2018, (Doc. 47), is **VACATED.** A new judgment will be **RE-ENTERED** to allow Petitioner an opportunity to consult with counsel and to file an appeal, if she wishes to do so. The existing appointment of counsel is extended to cover consultation and any appeal.

**IT IS FURTHER ORDERED** that Ground One and sub-grounds one through three of Ground Two of Petitioner's motion, (Doc. 63), are **DENIED**.

This the 3rd day of November, 2020.

  
United States District Judge